

APPENDIX 4. PROCEDURES FOR GRANTING EXCEPTIONS IN AREAS OF SEASONAL RESTRICTION

These procedures for granting exceptions in areas of seasonal restriction apply to all surface disturbing and disruptive activities. Some examples include leasable and salable mineral exploration and development, geophysical exploration, motorized vehicle use and recreation, heavy equipment use and construction (related to such things as timber sales, range or wildlife habitat improvements, and prescribed fire), and the development of roads and other types of rights-of-way (ROW).

Applications are reviewed for conformance with the Green River Resource Management Plan (RMP) and to identify resource concerns. The appropriate level of National Environmental Policy Act (NEPA) analysis is identified.

Procedures and criteria for granting exceptions to seasonal restrictions are described below.

PROCEDURES FOR HANDLING REQUESTS FOR EXCEPTION FROM SEASONAL STIPULATIONS AND/OR CONDITIONS OF APPROVAL (COA)

These procedures apply to any request for exception from seasonal stipulations for a surface disturbing or disruptive activity. A request for exception must be initiated in writing by the operator or project proponent. The request will include justification for the proposed change. When requested concurrently with an application (typical for situations involving oil and gas lease stipulations), the exception is considered as part of the project proposal in RMP and NEPA compliance review. For separate requests, the request is considered as a unique action and is analyzed and documented individually for RMP and NEPA compliance. In both cases, processing includes coordination with the Wyoming Game and Fish Department (WGFD).

The unpredictability of such factors as weather and animal movement and condition precludes analysis of requests related to wildlife far in advance of the time periods in question. Analyses of requests include review of potential mitigation measures and alternatives (traffic restrictions, alternative scheduling, staged activity, etc.).

The final determination for granting an exception to wildlife stipulations and mitigation measures will be a decision by the Bureau of Land Management (BLM) after consultation with WGFD.

CRITERIA FOR CONSIDERING EXCEPTIONS TO SEASONALLY RESTRICTED ACTIVITY

Currently, land use activities within the Rock Springs Field Office may be authorized with seasonal restriction(s) developed to provide protection of natural resources. Protective wildlife seasonal restrictions are developed consistent with statewide dates.

For example, big game crucial winter ranges are protected from November 15 to April 30. This restriction does not close an area to development but is in place to protect big game if weather or other habitat needs dictate that closure is necessary.

The Jack Morrow Hills Coordinated Activity Plan (JMH CAP) planning area has about 205,750 acres that are subject to seasonal restrictions. Following are some of the factors considered by the wildlife biologist upon receiving a request for exception.

- Are the factors leading to the inclusion of the wildlife seasonal restriction still valid?
- What are the dates for the proposed exception/relief?
- Animal presence or absence (may include proximity)
- Data indicating past use from previous years
- Sign of use (droppings or feathers).

General Considerations for Granting Exceptions to Seasonal Restrictions

Elk

Short-term exceptions are more likely to be considered early (November 15–December 1) and late (April 1–April 30) in the winter season, depending on weather conditions and animal occupancy. Exceptions would not be granted if requested from December 1 to March 1 unless unusually mild winter conditions prevail. Exceptions in elk calving areas (May 1–June 30) will not be granted because of elk sensitivity to disturbance. Displacement in open habitats is much greater than in woodlots or forests, hence restricted areas will encompass larger areas in open habitat.

Moose

Exceptions will depend on weather conditions and presence of animals. Moose habitat is also given protection through riparian and stream buffer zone stipulations (500 feet from live water and riparian habitats).

Antelope

Consideration will be given to situations where physical barriers (highways, fences, rivers, canyons, etc.) limit the animals' ability to move into other suitable habitats. In the case of developing oil and gas fields with proposed intensive or disruptive disturbances, BLM and WGFD coordination will be required to ensure that cumulative disturbance and/or range competition with other big game and livestock will not affect herd unit objectives.

Deer

Short-term exceptions may be granted early (November 15–December 1) and late (April 1–April 30), depending on weather conditions and animal occupancy, using the previously discussed criteria. Exceptions can be granted for north slopes, deep snow areas, or other habitats within crucial ranges that preclude use by wintering deer and in which access roads are determined to have little adverse impact.

Big Game Winter Ranges

The criteria used for crucial big game winter range are those areas that are available; relatively intact; and winter most of the population at its objective, in adequate body condition, 8 or more years out of 10. The time frames are based on a statewide standard which allows the authorizing officer (AO) the option of adjusting the time frame for the seasonal restriction if local winter conditions warrant.

Criteria to Consider for Granting Exceptions on Winter Ranges

- Animal presence or absence
- Animal condition
- Weather severity
 - a. Snow conditions (depth, crusting, longevity)
 - b. Seasonal weather patterns
 - c. Wind chill factors (indication of animals' energy use)
 - d. Air temperatures and variation
 - e. Duration of condition
 - f. Forecasts (long-range for duration of winter).
- Habitat condition and availability
 - a. Animal density (high or low)
 - b. Forage condition (good or poor)
 - c. Competition (livestock and other wildlife)
 - d. Forage availability
 - Amount of forage
 - Snow depth
 - e. Whether livestock use has decreased available winter forage
 - f. Whether or not there is suitable and ample forage immediately available and accessible nearby that is not being used.
- Site location
 - a. Likelihood of animals habituating to activity
 - b. Presence of thermal cover, wind cover, and other such factors
 - c. Proportion of winter range affected
 - d. Location of site within the winter range
 - e. Whether there is other activity in the area and whether it is likely to increase the cumulative adverse impact.
- Timing
 - a. Early in winter season
 - b. Nearing end of winter season
 - c. Kind and duration of disruptive activity expected
 - d. How much remains of the winter when the activity is likely to occur.

Raptors

Exceptions to the seasonal restriction of February 1 to July 31 for raptor nests may be granted, or the timing adjusted, depending on the nesting chronology of individual species, nest site location, and topography. Inactive nests can be excepted, as may certain types of short-term, minor disruptive land use activities that are not anticipated to affect nesting success.

Greater Sage-Grouse

Leks: No disruptive activities are allowed on leks, or within 1/4-mile of the perimeter of leks from March 1 to May 15 between the hours of 8 p.m. through 8 a.m. daily, to prevent disturbance to breeding greater sage-grouse.

Criteria to Consider for Granting Exceptions for Leks

Exceptions to lek timing stipulations could be granted if the activity does not adversely affect the use of the habitat by greater sage-grouse.

Exceptions for disruptive activities during strutting (March 1 through May 15, from 8 p.m. through 8 a.m.) may be considered. Depending on weather conditions, occupancy by the birds, or conditions that preclude occupancy by the birds, an exception for use in greater sage-grouse lek areas could be granted, or the time of year or time of day stipulation extended, dependent on local conditions.

Weather conditions may alter the actual times the area is used by the birds. Cloudy or foggy weather may cause the greater sage-grouse to strut longer in the day, whereas bright moonlit nights could provide an opportunity for strutting before dawn. The actual timing of this stipulation can be modified depending on weather conditions, such as fog and cloudy conditions or clear, bright moonlit nights.

Nesting/Early Brood-Rearing: No disruptive activities are allowed in greater sage-grouse nesting/early brood-rearing habitat from March 15 to July 15.

Criteria to Consider for Granting Exceptions for Nesting/Early Brood-Rearing

Exceptions could be granted for areas not containing vegetation suitable for nesting/early brood-rearing, provided the actual nesting/early brood-rearing areas are not affected. For example: biologists conducting the field review find the location is in the middle of a greasewood flat. This would not be suitable nesting habitat for greater sage-grouse, so an exception to the stipulation could be granted.

Exceptions for disruptive activities in nesting/early brood-rearing habitat could be considered if the action does not adversely affect the use of the habitat by the greater sage-grouse.

Specific criteria include—

- Habitat condition and availability.
 - a. Forage condition (good or poor; amount of forb growth)
 - b. Amount of residual grass cover

- c. Competition (livestock and other wildlife)
- d. Whether grazing has decreased available forage
- e. Whether or not there is suitable and ample forage immediately available and accessible nearby that is not being used.
- Site location.
 - a. Likelihood of animals habituating to the activity (for example: birds may habituate to a single pickup truck going into an area on a regular basis, but would not habituate to very loud noises or fast heavy traffic)
 - b. Proportion of nesting/early brood-rearing habitat affected
 - c. Location of site within the nesting/early brood-rearing habitat
 - d. Whether there is other activity in the area and whether it is likely to increase the cumulative adverse impact
 - e. Juxtaposition to burns or other habitat alterations that decrease the available sagebrush.
- Timing.
 - a. Early in breeding season
 - b. Nearing end of the breeding season
 - c. Kind and duration of disruptive activity expected
 - d. How much remains of the breeding season when the activity is likely to occur.

Application of this limitation to operation and maintenance of a developed project must be based on environmental analysis of the operational or production aspects.

Winter Concentration Areas: Disruptive activities are prohibited in greater sage-grouse winter concentration areas from November 15 through March 14.

Criteria to Consider for Granting Exceptions for Winter Concentration Areas

Exceptions for disruptive activities in winter concentration areas could be considered if the action does not adversely affect the use of the habitat by the greater sage-grouse.

Specific criteria include—

- Weather severity.
 - a. Snow conditions (depth, crusting, longevity)
 - b. Seasonal weather patterns
 - c. Wind chill factors (indication of animals' energy use)
 - d. Air temperatures and variation
 - e. Duration of condition
 - f. Forecasts (long-range for duration of winter).
- Habitat condition and availability.
 - a. Animal density (high or low)
 - b. Forage condition (good or poor; amount of new leader growth)
 - c. Competition (livestock and other wildlife)
 - d. Forage availability (canopy cover above snow and sagebrush on exposed south-and/or west-facing slope and windswept ridges)

- Amount of forage
 - Snow depth
- e. Whether livestock use has decreased available winter forage
- f. Whether or not there is suitable and ample forage immediately available and accessible nearby that is not being used.
- Site location.
 - a. Likelihood of animals habituating to activity (for example: birds may habituate to a single pickup truck going into an area on a regular basis, but would not habituate to very loud noises or fast heavy traffic)
 - b. Presence of thermal cover, wind cover, and other such factors
 - c. Proportion of winter concentration area affected
 - d. Location of site within the winter concentration area
 - e. Whether there is other activity in the area and whether it is likely to increase the cumulative adverse impact
 - f. Juxtaposition to burns or other habitat alterations that decrease the available sagebrush.
- Timing.
 - a. Early in winter season
 - b. Nearing end of winter season
 - c. Kind and duration of disruptive activity expected
 - d. How much remains of the winter when the activity is likely to occur.

Application of this limitation to operation and maintenance of a developed project must be based on environmental analysis of the operational or production aspects as provided for under NEPA (1969).

Other

Other seasonal restrictions for other species, such as mountain plover and game or sensitive fish species, may be identified on a case-by-case basis. Should additional seasonal restrictions be identified, exceptions would also be handled on a case-by-case basis and include a site-specific analysis.